

**THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO**

**WP.No.33864 of 2012**

**ORDER :**

Heard counsel for the petitioner and the Government Pleader for Revenue appearing for respondents 1 to 3.

2. None appeared for respondents 4 to 6 for whom substituted service by publication in 'Namaste Telangana Newspaper' was done on 13.12.2016.

3. The 4<sup>th</sup> respondent is the mother of the petitioner. She executed registered Gift Settlement Deed dt.13.03.2008 in favour of petitioner in respect of house bearing No.5-12-78 in Plot No.36 in survey Nos.32, 33 and 34 of Mangapuram New Housing Colony, Meerpet Village, Uppal Mandal, Kapra Municipality, Ranga Reddy District. The documents clearly recited that out of natural love and affection of the 4<sup>th</sup> respondent towards the petitioner, the said Deed was executed and that possession of the property along with title deeds was given to the petitioner.

4. Five months later, the 4<sup>th</sup> respondent executed a registered "Revocation of Gift Settlement" unilaterally canceling the Gift Settlement Deed dt.13.03.2008 executed by her in favour of the petitioner. In the said document, the 4<sup>th</sup> respondent stated that the possession of the property had

not been delivered to the petitioner at the time when the Gift Settlement Deed dt.13.03.2008 was executed by her, even though a contrary statement had been made in the Gift Settlement Deed dt.13.03.2008.

5. Counsel for petitioner contends that the 3<sup>rd</sup> respondent had no jurisdiction to register the Revocation Deed dt.23.08.2012 at the instance of the 4<sup>th</sup> respondent unilaterally and that the 4<sup>th</sup> respondent had no choice but to invoke the jurisdiction of the competent Civil Court and seek its cancellation. He placed reliance on the judgment of this Court in ***Haji Mohammed Ahmed v. State of Andhra Pradesh and others***<sup>1</sup>, wherein this Court held:

“The Supreme Court, in ***Thota Ganga Laxmi v. Government of A.P.***, Judgment in CA No.791 of 2007 and Batch, held that if any sale deed is required to be cancelled, the only remedy is by way of a civil suit for cancellation, but no cancellation deed can be unilaterally executed or registered. The Supreme Court, after referring to Rule 26(i)(k) of the Registration Rules, held that it is only when the earlier sale deed is cancelled by a competent Court can a cancellation deed be registered that too after notice to the concerned parties; and unilateral cancellation of the sale deed, as well as registration thereof, were wholly void, *non est* and meaningless transactions. The

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<sup>1</sup> 2012(2) ALD 230

observations of the Supreme Court, aforementioned, made in the context of sale deeds would equally apply to unilateral cancellation of gift deeds also. Unilateral cancellation of the gift deed in the present case must therefore be, and is, declared to be void. It is made clear that this order will not preclude the respondent from invoking the jurisdiction of the competent civil Court for cancellation of the subject gift deed.”

6. The principle laid down in the said judgment that there cannot be unilateral cancellation of registered Gift Settlement Deed, is not disputed by the learned Government Pleader.

7. In this view of the matter, the action of the 3<sup>rd</sup> respondent in registering the Revocation of the Gift Settlement Deed in document bearing No.8626/2012 dt.23.08.2012 is declared as *illegal* and without jurisdiction.

8. Accordingly, Writ Petition is allowed to the above extent only. There shall be no order as to costs.

9. Consequently, miscellaneous petitions pending if any, shall stand closed.

**M.S. RAMACHANDRA RAO, J**

06<sup>th</sup> March, 2017  
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